

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Telecommunications Relay	)	
Services and Speech-to-Speech	)	CC Docket No. 98-67
Services for Individuals with	)	
Hearing and Speech	)	
Disabilities	)	
	)	
Americans	)	CG Docket No. 03-123
With Disabilities Act of 1990	)	
	)	
	)	

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**REPLY COMMENTS OF  
TELECOMMUNICATIONS FOR THE DEAF, INC.,  
TO PETITIONS FOR RECONSIDERATION**

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**REPLY COMMENTS OF  
TELECOMMUNICATIONS FOR THE DEAF, INC.  
TO PETITIONS FOR RECONSIDERATION,**

Telecommunications for the Deaf, Inc. ("TDI") hereby submits its reply comments regarding the Petitions for Reconsideration filed by AT&T Corp. ("AT&T") and Verizon seeking reconsideration of various aspects of the Commission's *Second Report and Order*<sup>1</sup> in these proceedings. In considering the petitions, TDI urges the Commission to focus primarily on the functional equivalency mandate of the Act.<sup>2</sup> Any modification, waiver or clarification of the Commission's rules that reduces the functional equivalency of TRS service should be rejected, while any such change that improves the functional equivalency of TRS service should be adopted. The need for such functional equivalency is most important with respect to access to emergency services. The Commission must not modify its existing rules or implement new rules

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<sup>1</sup> *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Americans with Disabilities Act of 1990*, Second Report and Order, Order on Reconsideration and Notice of Proposed Rulemaking, CC Docket No. 98-67, CG Docket No. 03-123, FCC 03-112 (rel. June 17, 2003) ("*Second Report and Order*").

<sup>2</sup> 47 U.S.C. § 225.

that result in individuals with speech or hearing disabilities receiving inferior access to emergency services. Accordingly, while TDI supports those aspects of the comments that propose favorable revisions or clarifications to the Commission's rules, TDI generally opposes reconsideration or clarification of the *Second Report and Order*.

## **I. EMERGENCY CALL HANDLING**

Most of the comments support at least a portion of AT&T's and Verizon's petitions for reconsideration and/or clarification of the Commission's requirements regarding the routing of emergency calls to TRS providers. Like these commenters, TDI supports AT&T's proposal that the FCC require local exchange carriers, TRS providers, NECA, and the TRS Fund Advisory Committee to develop a single, nationwide Public Safety Answering Point ("PSAP") database, which could be accessed by every TRS provider to determine the appropriate PSAP to receive a particular emergency TRS call. TDI otherwise opposes AT&T's and Verizon's petitions.

### **A. The Commission Should Not Modify the Definition of "Appropriate" PSAP.**

Sprint Corporation ("Sprint"), SBC Communications Inc. ("SBC"), and WorldCom, Inc. d/b/a MCI ("MCI") support Verizon's request that the Commission revise the definition of "appropriate" PSAP for purposes of determining how TRS providers are required to route emergency calls.<sup>3</sup> Verizon describes technical limitations it claims make implementation of the Commission's rules difficult, including differences in the manner in which TRS providers route 711 emergency calls and wireline providers route 911 calls and the need for a TRS provider to

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<sup>3</sup> Sprint Comments at 2-4; SBC Comments at 3-4; MCI Comments at 2-3. Hamilton Relay, Inc. ("Hamilton") concurs in Verizon's Petition to the extent it recognizes that there may be more than one appropriate PSAP in certain circumstances because of the reality that PSAPs occasionally overlap. Hamilton Comments at 3. If two or more PSAPs overlap such that a 911 call could properly be routed to either PSAP, a 711 call that is routed in the same manner would be routed to the "designated PSAP to which a direct call from the particular number would be delivered," and thus, would comply with the Commission's requirements. No further clarification or revision is necessary.

access up to hundreds of separate PSAP databases in order to obtain current PSAP information.<sup>4</sup> SBC, Sprint, and MCI echoed some of these concerns.<sup>5</sup> Verizon, SBC, and MCI claim that these obstacles would take years and millions of dollars to overcome and that the costs of such implementation far outweigh the benefits to TRS users.<sup>6</sup> Finally, SBC<sup>7</sup> agrees with Verizon's claim<sup>8</sup> that the Commission's rules are not necessary because PSAPs are already required to be TTY-capable. However, as discussed below, neither Verizon's petition nor any of the comments filed in support of it warrant reconsideration of the Commission's *Second Report and Order*. Accordingly, TDI requests that the Commission deny Verizon's petition and reaffirm its previously ruling regarding routing of emergency 711 calls.

As the Commission concluded in adopting its definition of "appropriate" PSAP, functional equivalence requires that TRS users that dial 711 in emergencies be able to reach the same PSAP that would have received the call if the caller had direct-dialed 911.<sup>9</sup> The Commission also concluded that functional equivalence requires that TRS providers update their PSAP databases with the same frequency that PSAP databases are updated for 911 calls by voice telephone users.<sup>10</sup> Finally, the Commission found that twelve months was a reasonable period of time for TRS providers to implement these requirements.<sup>11</sup> Central to these determinations is the Commission's apparent understanding that TRS service cannot be truly the functional equivalent of voice service if TRS users receive inferior emergency service. Neither the petitions for reconsideration, nor the comments in support of those petitions, provide a basis for the Commission to modify its conclusions from the *Second Report and Order*.

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<sup>4</sup> Verizon Petition at 5-8.

<sup>5</sup> SBC Comments at 3-4; Sprint Comments at 2-4; MCI Comments at 2-3.

<sup>6</sup> Verizon Petition at 5-7; SBC Comments at 3-4; MCI Comments at 3-4.

<sup>7</sup> SBC Comments at 3.

<sup>8</sup> Verizon Petition at 2, 4.

<sup>9</sup> *Second Report and Order*, at ¶ 41.

<sup>10</sup> *Second Report and Order*, at ¶ 42.

The claims raised by Verizon and repeated by SBC, Sprint and WorldCom regarding the time and cost involved in complying with the Commission's rules, while allegedly based upon technical differences between the local exchange carriers' ("LECs"), 911 systems and the TRS providers' systems, are conjectural, as none of these entities offers any evidence that they have actually attempted to comply with the Commission's requirements. Nor do the commenters offer any factual evidence or concrete cost data that demonstrates that compliance "would take several years and cost hundreds of millions of dollars." Sprint, which generally supports Verizon's petition, even admits that it "has no way of testing the accuracy of this statement."<sup>12</sup> TDI may be willing to revise its position on this issue upon receipt of data and other reliable material that document such possibilities in cost and time to comply with these rules; however, until interested parties have placed such data into the record, TDI urges the Commission to refrain from modifying its requirements based upon the petitioners unsupported claims.

Moreover, despite the commenters' claims that substantial upgrades would be necessary to comply with the Commission's requirements, Verizon's own petition demonstrates that TRS providers' existing systems are currently capable of routing approximately 90% of 711 emergency calls to the "appropriate" PSAP in accordance with the Commission's rules. As Verizon and SBC explained, while a LEC's 911 selective router uses the caller's NPA-NXX-XXXX to determine the appropriate PSAP for emergency calls, most TRS providers only use the caller's NPA-NXXX to determine the appropriate PSAP.<sup>13</sup> Nonetheless, Verizon cites Sprint's previous comments that "most of the time use of the NPA-NXX enables Sprint to send the caller to the same PSAP as the LEC."<sup>14</sup> Verizon goes on to conclude that [w]hile Verizon is not a TRS

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<sup>11</sup> *Second Report and Order*, at ¶ 41.

<sup>12</sup> Sprint Comments at 3.

<sup>13</sup> SBC Comments at 3-4; Verizon Petition at 3-4.

<sup>14</sup> Verizon Petition at 3 (quoting Sprint Comments at 3).

provider . . . its best estimate is that using NPA-NXX would allow TRS providers to route calls [sic] the same PSAP as the caller would have reached if he had dialed 911 directly about 90% of the time.”<sup>15</sup> In other words, Verizon is seeking reconsideration of a requirement that ensures TRS providers can also route the remaining 10% of 711 emergency calls to the same PSAP the caller would have reached if he had dialed 911 directly. Given Verizon’s and Sprint’s statements that compliance with the Commission’s rule is already possible, there is no need to revise the definition of “appropriate” PSAP.

In addition, by requiring that 711 emergency calls be routed to the same PSAP that would have received the call if the caller direct dialed 911, the Commission has already effectively rejected Verizon’s argument, supported by some of the comments, that the Commission’s 711 emergency call handling requirements are not necessary because every PSAP is required to be TTY-capable. While, as the Commission noted, dialing 911 is the most familiar way to reach public safety personnel in an emergency, differences in the way in which TRS users and voice callers utilize their telephones mitigate against relying solely upon the existence of PSAP TTY-capability. Not all users of relay services call relay by TTY. Some users call via Voice Carry Over (“VCO”) (including the enhanced VCO service, CapTel, provided by Ultratec), Hearing Carry Over (“HCO”) or Speech-to-Speech (“STS”), and the number of callers utilizing these services is increasing with the development of Internet Relay and Video Relay. While the availability and increased usage of these new alternatives to TTY provide relay users additional choices and benefits, because these services are not directly compatible with TTY, callers utilizing these services would not be able to call a PSAP directly even if the PSAP is TTY-capable.

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<sup>15</sup> Verizon Petition at 3.

Also, regardless of the level of outreach and consumer education regarding dialing 911 in an emergency, there always will be TRS users who instead dial 711. Unlike 911, which most voice telephone users will use rarely, if at all, TRS users dial 711 *for every call*. As a result of such repetition, dialing 711 becomes almost automatic for a TRS user seeking to initiate a telephone call, just as dialing 411 for information is automatic for most voice telephone users. Consequently, when a TRS user, under the stress of an emergency situation, initiates an emergency call, the number that caller is most likely to dial first is the number he dials every time he initiates a call – 711 – rather than a number he has never dialed. Accordingly, functional equivalence requires that TRS users receive the same level of emergency response utilizing the system with which they are most familiar as voice callers receive from utilizing the 911 system.

**B. The Commission Should Adopt AT&T's Proposal for a Single, Nationwide PSAP Database.**

The concerns expressed by Verizon and others that TRS providers would not be able to update their databases with the same frequency that LECs update their 911 selective routers<sup>16</sup> could be eliminated by the development of a single, nationwide PSAP database, as proposed by AT&T.<sup>17</sup> TDI agrees with those comments that support AT&T's proposal, but urges the Commission to add this requirement to the existing rules rather than substituting it for the requirement that a 711 emergency call be routed to the same PSAP that would receive the call if the caller dialed 911.

AT&T's proposal would eliminate many of the problems related to TRS providers having to obtain access to an update multiple PSAP databases. At a minimum, a single database would eliminate the need for TRS providers, or their PSAP vendors, to obtain access to hundreds of PSAP databases in order to properly route 711 emergency calls. In addition, a single, nationwide

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<sup>16</sup> Verizon Petition at 6-7; MCI Comments at 2; Hamilton Comments at 3.

PSAP database would assist both TRS providers and LECs in obtaining accurate, up-to-date PSAP information.

**C. The Commenters' Remaining Alternatives May Be Acceptable Interim Or Transition Measures, But Cannot Replace The Commission's Existing Rules.**

SBC joins in Verizon's argument that the Commission should, rather than enforcing its new rules, adopt a national outreach program to instruct TRS users to dial 911 in an emergency.<sup>18</sup> A national outreach program regarding the use of 911 and TTY-capability at PSAPs is important, and TDI supports such an effort; however, it is only an interim measure and will not provide functional equivalence until all TRS users are able to dial 911 in emergencies, regardless of whether they use TTY, VCO, HCO, STS, or other relay services, and when all PSAPs are equipped to accept such calls, as well as voice calls. Until that time, TRS users should not be relegated to inferior emergency response because their TRS calls are routed to a different PSAP than would a 911 call or must be re-routed through multiple PSAPs.

**II. THREE-WAY CALLING**

All of the comments that address AT&T's request for clarification and waiver of the Commission's three-way calling requirement<sup>19</sup> oppose waiver of the rules. SBC and Sprint, while agreeing with AT&T that some clarification of the rule is warranted, do not believe that a waiver is necessary.<sup>20</sup> Hamilton, on the other hand, disagrees with AT&T's interpretation of the Commission's rule and, thus that any clarification is needed, and also does not believe that a waiver is necessary.<sup>21</sup> Hamilton also supports AT&T's petition with respect to TRS providers reimbursement for providing three-way calling.

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<sup>17</sup> See MCI Comments at 3; Sprint Comments at 4.

<sup>18</sup> SBC Comments at 3; Verizon Petition at 4-5.

<sup>19</sup> AT&T Petition at 7-10. AT&T

<sup>20</sup> SBC Comments at 2; Sprint Comments at 5.

<sup>21</sup> Hamilton Comments at 5-6.



TDI does not oppose clarification of the Commission's three-way calling requirement, as suggested by the comments, but any such clarification must not limit the existing requirement that TRS providers offer three-way calling capability. For purposes of functional equivalence, it is not important which of the two ways identified in the *Second Report and Order* a TRS provider chooses to provide three-way calling. What is critical is that every TRS provider actually provides three-way calling capability. Accordingly, even if the Commission determines that clarification of its three-way calling requirement is necessary, which TDI does not believe is the case, the Commission must retain the underlying requirement that TRS provider offer some form of three-way calling capability.

Further, as the comments demonstrate, many TRS providers are already offering three-way calling capability in the manner described in the *Second Report and Order*.<sup>22</sup> AT&T has not demonstrated that it cannot now offer three-way calling capability in some form or that it would not be able to do so by February 24, 2004, the deadline set forth in the *Second Report and Order*. Therefore, as all of the comments note, there is no basis for granting the waiver requested by AT&T.

Finally, TDI supports Hamilton's clarification of AT&T's petition regarding reimbursement for three-way calling. In the *Second Report and Order*, the Commission determined that when a TRS provider sets up a TTY-to-TTY call, only the actual minutes the CA is on the line are reimbursable.<sup>23</sup> As Hamilton noted, TRS providers incur costs to set up TTY-to-TTY calls, including CA and other costs to determine whether the call is a TTY-to-TTY call.<sup>24</sup> These costs are incurred for activities prior to the "actual minutes that a CA spends on the line with the TRS user prior to the transfer to the intended TTY party," which are nevertheless

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<sup>22</sup> See Hamilton Comments at 5; Sprint Comments at 5.

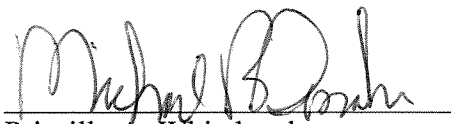
<sup>23</sup> *Second Report & Order*, at ¶ 69 & n.230.

essential to completion of the call. In order to ensure that TRS providers receive a level of compensation that covers the costs they actually incur to set up a TTY-to-TTY call, the Commission should adopt Hamilton's recommendation that TRS providers receive compensation for the entire conversation time of the call.

### III. CONCLUSION

For the reasons set forth above, TDI urges the Commission to deny AT&T's and Verizon's petitions for reconsideration and affirm the rules adopted in the *Second Report and Order*.

Respectfully submitted,



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